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10/664,716	09/18/2003	Stefan Karlinger	71129	4410

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EXAMINER

DUNWOODY, AARON M

ART UNIT PAPER NUMBER

3679

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/664,716	Applicant(s) KARLINGER, STEFAN	
	Examiner Aaron M. Dunwoody	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 23-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites, "said flexible hose being non-rotatably fixed to the holding area and the holding area being rotatably connected to a holding part"; however, it is not clear to the Examiner how "the holding area" or "a space" can be rotatably connected to anything.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 3934902, McNamee in view US patent 6595473, Aoki et al.

In regards to claims 1 and 26, as best understood, McNamee discloses a device (10) for holding a flexible hose (12), having at least one holding area (56) for an at least axial holding of the flexible hose; and at least one one-sided support area (36)

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surrounding the flexible hose and extending towards a free end of the flexible hose; the flexible hose being non-rotatably fixed to the holding area and the holding area being rotatably connected to a holding part. McNamee does not disclose the support area having an inner curved surface extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end towards the direction of the free end of the flexible hose. Aoki et al teach a support area (63) having an inner curved surface (65) extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end, so that the corrugated tube is smoothly flexible (col. 12, lines 55-57). As Aoki et al relates to a fixing structure for a corrugated tube, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the support area with a extension extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end, so that the corrugated tube is smoothly flexible, as taught by Aoki et al.

In regards to claim 2, McNamee in view of Aoki et al disclose the holding area having a substantially cylindrical outer surface and an inner surface comprising inwardly directed annular ribs (32, 36), the inner curved surface having a decreasing radius of curvature from a location adjacent to the holding section to the expanded diameter end, the decreasing radius being one of progressively decreasing and comprising a first radius of curvature adjacent to the holding section followed by a smaller radius of curvature adjacent to the expanded outer diameter end.

In regards to claim 3, McNamee discloses the holding area further comprising an application area (28) for applying the device to a holding part (50).

In regards to claim 4, McNamee discloses the holding part being constructed as a fixing clamp or clip.

In regards to claim 5, McNamee discloses the section application having an outer annular groove.

In regards to claims 6, McNamee discloses an inwardly directed lug (threads of 50) of the holding part engages the annular groove.

In regards to claim 7, McNamee discloses a construction with at least two partial shells (half- shells) (22).

In regards to claim 8, McNamee discloses the partial shells being screwed together (when inserted into 50).

In regards to claim 23, Aoki et al disclose a inner part radius of curvature (R1) of expansion of an inner part of the support area is of the same order of magnitude as a minimum bending radius of the flexible hose minus half the diameter of the flexible hose.

In regards to claim 24, Aoki et al disclose a support area end radius of curvature (R2) of the support area is smaller than the inner part radius of curvature (R1) to provide an edgeless transition.

In regards to claim 25, Aoki et al disclose the support area end radius of curvature (R2) is 10% to 20% of the inner part radius of curvature (R1).

In regards to claim 27, McNamee in view of Aoki et al disclose the decreasing radius of curvature comprises a larger radius of curvature section adjacent to said holding section followed by a smaller radius of curvature section adjacent to said

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expanded outer diameter end; and the holding area 11% a substantially cylindrical outer surface and an inner surface comprising inwardly directed annular ribs and said holdable outer surface is a ribbed hose surface cooperating with said annular ribs to rotationally and axially hold said free end at said holding area.

Claims 1, 3-7, 9 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 3498642, Berger in view of Aoki et al.

In regards to claims 1 and 26, as best understood, Berger discloses a device (300) for holding a flexible hose (15), having at least one holding area for an at least axial holding of the flexible hose; and at least one one-sided support area surrounding the flexible hose and extending towards a free end of the flexible hose; the flexible hose being non-rotatably fixed to the holding area and the holding area being rotatably connected to a holding part. Berger does not disclose the support area having an inner curved surface extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end. Aoki et al teach a support area (63) having an inner curved surface (65) extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end, so that the corrugated tube is smoothly flexible (col. 12, lines 55-57). As Aoki et al relates to a fixing structure for a corrugated tube, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the support area with an extension extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end, so that the corrugated tube is smoothly flexible, as taught by Aoki et al.

In regards to claim 3, Berger discloses an application area (34) for applying the device to a holding part.

In regards to claim 4, Berger discloses the holding part being constructed as a fixing clamp or clip.

In regards to claim 5, Berger discloses the section application having an outer annular groove (between 34 and 33).

In regards to claim 6, Berger discloses an inwardly directed lug (see Figure 1) of the holding part engaging the annular groove.

In regards to claim 7, Berger discloses a construction with at least two partial shells (half- shells) (31, 32).

In regards to claim 9, Berger discloses the partial shells being interconnected by snap action devices.

In regards to claim 23, Aoki et al disclose a inner part radius of curvature (R1) of expansion of an inner part of the support area is of the same order of magnitude as a minimum bending radius of the flexible hose minus half the diameter of the flexible hose.

In regards to claim 24, Aoki et al disclose a support area end radius of curvature (R2) of the support area is smaller than the inner part radius of curvature (R1) to provide an edgeless transition.

In regards to claim 25, Aoki et al disclose the support area end radius of curvature (R2) is 10% to 20% of the inner part radius of curvature (R1).



In regards to claim 27, Berger in view of Aoki et al disclose the decreasing radius of curvature comprises a larger radius of curvature section adjacent to said holding section followed by a smaller radius of curvature section adjacent to said expanded outer diameter end; and the holding area 11% a substantially cylindrical outer surface and an inner surface comprising inwardly directed annular ribs and said holdable outer surface is a ribbed hose surface cooperating with said annular ribs to rotationally and axially hold said free end at said holding area.

Claims 1-7, 9-11, 15 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 4907830, Sasa et al in view of Aoki et al.

In regards to claims 1 and 26, as best understood, Sasa et al disclose a device (4) for holding a flexible hose (6), having at least one holding area for an at least axial holding of the flexible hose; and at least one one-sided support area surrounding the flexible hose and extending towards a free end of the flexible hose; the flexible hose being non-rotatably fixed to the holding area and the holding area being rotatably connected to a holding part. Sasa et al does not disclose the support area having an inner curved surface extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end. Aoki et al teach a support area (63) having an inner curved surface (65) extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end, so that the corrugated tube is smoothly flexible (col. 12, lines 55-57). As Aoki et al relates to a fixing structure for a corrugated tube, it would have been obvious to one having ordinary skill in the art



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at the time the invention was made to fabricate the support area with an extension extending from a reduced outer diameter end, adjacent to the holding area, to an expanded outer diameter end, so that the corrugated tube is smoothly flexible, as taught by Aoki et al.

In regards to claim 2, Sasa et al disclose having inwardly directed annular ribs (5).

In regards to claim 3, Sasa et al disclose an application area (11) for applying the device to a holding part (3).

In regards to claim 4, Sasa et al disclose the holding part being constructed as a fixing clamp or clip.

In regards to claim 5, Sasa et al disclose the section application having an outer annular groove.

In regards to claims 6, Sasa et al disclose an inwardly directed lug of the holding part engaging the annular groove.

In regards to claim 7, Sasa et al disclose a construction with at least two partial shells (half- shells).

In regards to claim 9, Sasa et al disclose the partial shells being interconnected by snap action devices (12).

In regards to claim 10, Sasa et al disclose the partial shells being held together by a closing ring (12).

In regards to claim 11, Sasa et al disclose the closing ring being constructed in one piece.

In regards to claim 15, Sasa et al disclose a cylindrical shoulder for the non-positive reception of the closing ring in a radial and circumferential direction.

In regards to claim 23, Aoki et al disclose a inner part radius of curvature (R1) of expansion of an inner part of the support area is of the same order of magnitude as a minimum bending radius of the flexible hose minus half the diameter of the flexible hose.

In regards to claim 24, Aoki et al disclose a support area end radius of curvature (R2) of the support area is smaller than the inner part radius of curvature (R1) to provide an edgeless transition.

In regards to claim 25, Aoki et al disclose the support area end radius of curvature (R2) is 10% to 20% of the inner part radius of curvature (R1).

In regards to claim 27, Sasa et al in view of Aoki et al disclose the decreasing radius of curvature comprises a larger radius of curvature section adjacent to said holding section followed by a smaller radius of curvature section adjacent to said expanded outer diameter end; and the holding area 11% a substantially cylindrical outer surface and an inner surface comprising inwardly directed annular ribs and said holdable outer surface is a ribbed hose surface cooperating with said annular ribs to rotationally and axially hold said free end at said holding area.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasa et al in view of Aoki et al, and in further view of US patents 2547263, Heimann et al, and 3464307, Wurzel.

In regards to claim 12, Sasa et al in view of Aoki et al disclose the claimed invention except for the closing ring being formed by several partial rings. Heimann et al and Wurzel teach a closing ring being formed by several partial rings. As Heimann et al and Wurzel relates to retaining rings, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the closing ring as several partial rings, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

In regards to claim 13, Heimann et al and Wurzel further disclose the partial rings of the closing ring being connectable by snap constructions by snapping in perpendicular to the axis of symmetry.

In regards to claim 14, Heimann et al and Wurzel further disclose rigid, complimentary shapes, engaging behind in the closed position and located on end faces of the partial rings of the closing ring and axial connectability of the shapes and therefore the partial rings.

### ***Response to Arguments***

Applicant's arguments filed 8/18/2005 have been fully considered but they are not persuasive. The Applicant argues that the Examiner's rejection takes the position that the holding part is not part of the claimed invention. The Examiner disagrees. The Examiner illustrates the holding part and how it is anticipated by the prior art of record.

The Applicant argues that the prior art does not disclose the flexible hose being non-rotatably fixed to the holding area and the holding area being connected to the

holding part. The Examiner disagrees. It is not clear to the Examiner how "the holding area" or "a space" can be rotatably connected to anything.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Aaron M Dunwoody  
Primary Examiner  
Art Unit 3679

.amd